

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: August 18, 2004

Division: Growth Management

Bulk Item: Yes X No

Department: N/A

AGENDA ITEM WORDING: Approval of an amendment to the contract between Monroe County and the firm of Freilich, Leitner, & Carlisle for legal services to prepare amendments to the County's Land Development Regulations.

ITEM BACKGROUND: The County Attorney, Land Authority Executive Director, and Growth Management Director have identified specific concerns regarding existing procedures and regulations followed by the County in addressing Beneficial Use determinations. Further legal assistance is required by the County to investigate this issue and assist the County in making appropriate changes.

The limit on the maximum compensation under the current contract needs to be revised, as the remaining funds have already been committed under two work orders.

PREVIOUS RELEVANT BOARD ACTION: BOCC approved initial contract on May 15, 2002.

CONTRACT/AGREEMENT CHANGES: Increase contract amount from \$75,000 to a maximum of \$95,000.

STAFF RECOMMENDATIONS: Approval.

TOTAL COST: \$95,000

BUDGETED: Yes X No

COST TO COUNTY: \$95,000

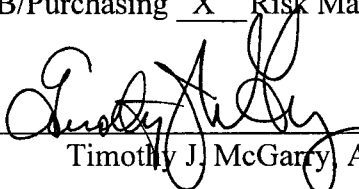
SOURCE OF FUNDS: Fund 148 (MSTU)

REVENUE PRODUCING: N/A

AMOUNT PER MONTH N/A **Year** N/A

APPROVED BY: County Atty X OMB/Purchasing X Risk Management X

DIVISION DIRECTOR APPROVAL:


Timothy J. McGarry AICP

DOCUMENTATION: Included X To Follow Not Required

DISPOSITION:

AGENDA ITEM # H14

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: Freilich, Leitner & Carlisle Contract #
 Effective Date: Upon Approval
 Expiration Date:

Contract Purpose/Description:
Approval of Contract Amendment between Monroe County and the firm of Freilich
Leitner & Carlisle for legal services to prepare amendments to the County's LDR's.

Contract Manager: Timothy McGarry 2519 Growth Management #11
 (Name) (Ext.) (Department/Stop #)

for BOCC meeting on 07/30/04 Agenda Deadline: 07/30/04

CONTRACT COSTS

Total Dollar Value of Contract: \$ 95,000 Current Year Portion: \$ 95,000
 Budgeted? Yes ☒ No ☐ Account Codes: 148-51000-530-318-
 Grant: \$ 0.00
 County Match: \$ 0.00

ADDITIONAL COSTS

Estimated Ongoing Costs: \$ N/A/yr For:
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>8/11/04</u>	Yes <input type="checkbox"/> No <input type="checkbox"/>	<u>X. Marlene Conway</u>	<u>8/11/04</u>
Risk Management	<u>8-10-04</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>M. Sleumer</u>	<u>8-10-04</u>
O.M.B./Purchasing	<u>08/10/04</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>Shantae Spruell</u>	<u>8/10/04</u>
County Attorney	<u>8/2/04</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>John Collins</u>	<u>08/09/04</u>

Comments: Any extension/modification/revision in future will
Require extensive inclusion of basic contract clauses.

**AMENDMENT NO. 1 TO
CONTRACT FOR LEGAL SERVICES TO PREPARE COMPREHENSIVE
AMENDMENTS TO CHAPTER 9.5, MONROE COUNTY CODE
BETWEEN MONROE COUNTY AND FREILICH, LEITNER & CARLISLE,
DATED MAY 30, 2002**

The Board of County Commissioners and Freilich, Leitner, & Carlisle ("FLC"), hereby agree to amend the last sentence of Section 1. of the subject contract to read as follows:

"The maximum compensation available to FLC under this contract is \$95,000."

All other provisions of the Contract between Monroe County Board of County Commissioners and Freilich, Leitner, & Carlisle, shall remain in full force and effect.

ATTEST: Danny L. Kolhage, Clerk

BOARD OF COUNTY
COMMISSIONERS OF
MONROE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Mayor/Chairman

Date: _____

Date: _____

ATTEST:

FREILICH, LEITNER, & CARLISE

By: _____
Assistant Secretary

By: _____
Partner

Date: _____

Date: _____

CONTRACT FOR LEGAL SERVICES TO PREPARE COMPREHENSIVE
AMENDMENTS TO CHAPTER 9.5, MONROE COUNTY CODE

THIS CONTRACT is entered into by Monroe County, a political subdivision of the State of Florida, Marathon Government Center, 2798 Overseas Highway, Marathon, Florida, 33050, hereafter the County, and Freilich, Leitner & Carlisle, a partnership, 1000 Plaza West, 4600 Madison, Kansas City, Missouri, 64112-3012, hereafter FLC.

1. FLC represents that it is professional qualified to prepare amendments to the County's Land Development Regulations (Chapter 9.5, Monroe County Code), hereinafter the project. The budget and scope of services for all work assignments to be completed for the project by FLC shall be authorized in a Work Order(s) signed by FLC and the County Administrator's designee. The maximum compensation available to FLC under this contract is \$75,000.

2. If the County decides to abandon the project or fails to appropriate funds, the County must immediately notify FLC in writing. FLC must cease all work on the project upon receipt of the County's abandonment or nonappropriation letter. The County must pay FLC that amount due to FLC for work done – but uncompensated – up to the date of FLC's receipt of the abandonment or nonappropriation letter.

3. FLC may only use qualified personnel to carry out the project.

4. FLC may not assign or subcontract its obligations under this contract – other than the receipt of money – without written consent of the County.

5. Records of FLC's direct personnel payroll and reimbursable expenses pertaining to the project, and records of the accounts between the County and FLC, must be kept on a generally accepted accounting basis and must be made available to the County or its authorized representative during normal business hours. FLC must keep the records for three years following the completion of project.

6. FLC is an independent contractor. Nothing in this contract may create a contractual relationship with, or any rights in favor of, any third party including subcontractors or

materialmen of FLC. FLC's use of any subcontractor(s) to carry out the project will not in any way relieve FLC of its obligations under this contract even though the subcontractor was approved by the County.

7. FLC must have the insurance of the amount and type described in Exhibit A. Exhibit A is attached and incorporated into this contract by reference with the Certificate of Liability naming Monroe County as the certificate holder.

8. FLC acknowledges that all documents created as part of the project are public records under Chapter 119, Florida Statutes. As a result, they must be made available at a reasonable place and time upon the request of a member of the public. Failure to do so is a breach of this contract entitling the County to treat the contract as terminated on the date of the violation of Chapter 119, Florida Statutes, with the County's obligation to pay extending only to work completed as of that date but as yet uncompensated.

9. This contract has been carefully reviewed by both FLC and the County. Therefore, this contract is not to be strictly construed against any party on the basis of authorship.

10. This contract represents the parties' final and mutual understanding. It replaces any earlier agreements or understanding, whether written or oral. This contract cannot be modified or replaced except by another signed contract.

11. Nothing in this contract should be read as modifying the applicable statute of limitations. The waiver of the breach of any obligation of this contract does not waive another breach of that or any other obligation.

12. FLC warrants that he/it has not employed, retained or otherwise had act his/its behalf any former County officer or employee subject to this prohibition of Section 2 of Ordinance No. 010-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 010-1990. For breach or violation of this provision the county may, in its discretion, terminate this contract without liability and may also, in its discretion, deduct from the contract or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former County officer or employee.

13. This contract is governed by the laws of the State of Florida, Venue for any litigation arising under this contract must be in Monroe County, Florida.

14. FLC agrees that it will not unlawfully discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, national origin or disability. FLC must insert a provision similar to this paragraph in any subcontracts awarded under this contract except those for the purchase of commercial supplies and raw materials.

15. All communication between the parties should be through the following individuals:

Monroe County
Director of Planning & Env. Resources
Marathon Government Center
2798 Overseas Highway
Marathon, FL 33050

FLC
Freilich, Leitner & Carlisle
1000 Plaza West, 4600 Madison
Kansas City, MO 64112-3012

16. This contract takes effect on the date of the signature of the last party to sign.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year written below

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

By: *Gamela Hancock*
Deputy Clerk

Date: 05.15. 2002

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

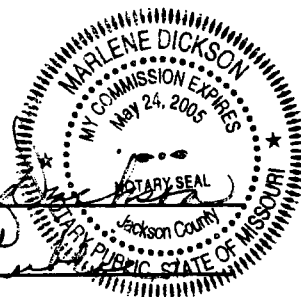
By: *[Signature]*
Mayor/Chairman

Date: 05.15. 2002

(SEAL)
Attest:

By: *Marlene Dickson*
Title: Notary Public

Date: 5/30/02



FREILICH, LEITNER & CARLISLE

By: *[Signature]*
Title: Partner

Date: 5/30/02

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY: *[Signature]*
ROBERT N. WOLFF

EXHIBIT A

INSURANCE REQUIREMENTS

CERTIFICATE OF LIABILITY

**WORKERS' COMPENSATION
INSURANCE REQUIREMENTS
FOR
CONTRACT _____**

**BETWEEN
MONROE COUNTY, FLORIDA
AND
_____**

Prior to the commencement of work governed by this contract, the Contractor shall obtain Workers' Compensation Insurance with limits sufficient to respond to the applicable state statutes.

In addition, the Contractor shall obtain Employers' Liability Insurance with limits of not less than:

\$1,000,000 Bodily Injury by Accident
\$1,000,000 Bodily Injury by Disease, policy limits
\$1,000,000 Bodily Injury by Disease, each employee

Coverage shall be maintained throughout the entire term of the contract.

Coverage shall be provided by a company or companies authorized to transact business in the state of Florida.

If the Contractor has been approved by the Florida's Department of Labor, as an authorized self-insurer, the County shall recognize and honor the Contractor's status. The Contractor may be required to submit a Letter of Authorization issued by the Department of Labor and a Certificate of Insurance, providing details on the Contractor's Excess Insurance Program.

If the Contractor participates in a self-insurance fund, a Certificate of Insurance will be required. In addition, the Contractor may be required to submit updated financial statements from the fund upon request from the County.

WC3

**GENERAL LIABILITY
INSURANCE REQUIREMENTS
FOR
CONTRACT _____**

**BETWEEN
MONROE COUNTY, FLORIDA
AND
_____**

Prior to the commencement of work governed by this contract, the Contractor shall obtain General Liability Insurance. Coverage shall be maintained throughout the life of the contract and include, as a minimum:

- Premises Operations
- Products and Completed Operations
- Blanket Contractual Liability
- Personal Injury Liability
- Expanded Definition of Property Damage

The minimum limits acceptable shall be:

\$1,000,000 Combined Single Limit (CSL)

If split limits are provided, the minimum limits acceptable shall be:

**\$ 500,000 per Person
\$ 1,000,000 per Occurrence
\$ 100,000 Property Damage**

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this contract. In addition, the period for which claims may be reported should extend for a minimum of twelve (12) months following the acceptance of work by the County.

The Monroe County Board of County Commissioners shall be named as Additional Insured on all policies issued to satisfy the above requirements.

GL3

**PROFESSIONAL LIABILITY
INSURANCE REQUIREMENTS
FOR
CONTRACT _____**

**BETWEEN
MONROE COUNTY, FLORIDA
AND
_____**

Recognizing that the work governed by this contract involves the furnishing of advice or services of a professional nature, the Contractor shall purchase and maintain, throughout the life of the contract, Professional Liability Insurance which will respond to damages resulting from any claim arising out of the performance of professional services or any error or omission of the Contractor arising out of work governed by this contract.

The minimum limits of liability shall be:

\$500,000 per Occurrence/\$1,000,000 Aggregate

PRO2

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID JU
FREIL-1

DATE (MM/DD/YY)
05/02/02

PRODUCER

Haake Companies
4650 College Blvd., Suite #300
Overland Park KS 66211-1626
Phone: 913-491-1999 Fax: 913-906-0088

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

Freilich, Leitner & Carlisle
1150 One Main Plaza
4435 Main Street
Kansas City MO 64111-7727

INSURER A: Chubb Group of Ins. Companies
INSURER B: Chubb Group of Ins. Companies
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	35308303	04/05/02	04/05/03	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire) \$ INCLUDED
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				MED EXP (Any one person) \$ 10,000
					PERSONAL & ADV INJURY \$ 1,000,000
					GENERAL AGGREGATE \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP AGG \$ INCLUDED
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				
B	AUTOMOBILE LIABILITY	73200746	04/05/02	04/05/03	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS				
	<input checked="" type="checkbox"/> NON-OWNED AUTOS				
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT \$
	<input type="checkbox"/> ANY AUTO				OTHER THAN EA ACC \$
					AUTO ONLY: AGG \$
B	EXCESS LIABILITY	79739201	04/05/02	04/05/03	EACH OCCURRENCE \$ 4,000,000
	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE				AGGREGATE \$ 4,000,000
	<input type="checkbox"/> DEDUCTIBLE				\$
	<input type="checkbox"/> RETENTION \$				\$
					\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	71624118	04/05/02	04/05/03	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER
					E.L. EACH ACCIDENT \$ 500,000
					E.L. DISEASE - EA EMPLOYEE \$ 500,000
					E.L. DISEASE - POLICY LIMIT \$ 500,000
	OTHER				

APPROVED BY RISK MANAGEMENT
BY [Signature]
DATE 01/10/02
WAIVER N/A YES

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS SHALL BE NAMED AS ADDITIONAL

INSURED WITH REGARDS TO THE PROJECT: WIRELESS TELECOMMUNICATIONS ORDINANCE

ANY QUESTIONS-PLEASE CONTACT

cc: Finance

JULIET SWAIN

CERTIFICATE HOLDER

N

ADDITIONAL INSURED; INSURER LETTER:

CANCELLATION

(913) 491 - 1999

MONROE COUNTY BOARD OF
COUNTY COMMISSIONS
MONROE COUNTY PLANNING DEPT.
2798 OVERSEAS HIGHWAY, STE.400
MARATHON FL 33050

MONROEC

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Gerald C. Haake